

Internal Revenue Service

District  
Director

Department of the Treasury

1100 Commerce St., Dallas, Texas 75242

Date: OCT - 8 1998

Employer ID Number:

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

You were formed on [REDACTED] in [REDACTED]. According to your organizing document, the Charter, your objectives are to:

Exchange information, problems, ideas, experiences, resources and questions related to the use of [REDACTED].

Influence the directions of development activities for [REDACTED] software products.

You indicate that the software produced by [REDACTED] is a web application platform and that your focus is a line of business known as web application development.

You have no requirements for membership and you charge no membership fees. Your membership consists of the [REDACTED] individuals on your mailing list and you state that most of these are inactive members. Your membership records do not include specific information on how many of your members use [REDACTED] software but you estimate that [REDACTED] of your members are associated with companies that use [REDACTED] software. The remaining members either did not specify the company they are associated with or you are not aware that the company listed uses [REDACTED] software.

You indicate that you intend to hold [REDACTED] to [REDACTED] meetings per year. Speakers at the meetings will include both members and professionals in the industry. Topics covered at the meetings are to be within the web application environment. You have conducted three meetings since you were formed. According to the agendas for the meetings and the descriptions of the topics you provided, eight topics were covered during these meetings. Only two of these topics specifically addressed non-[REDACTED] software issues. Topics as listed in your Announcements are:

President of [REDACTED] discussing [REDACTED] position in the marketplace and the future direction of [REDACTED]

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A representative of [redacted] demonstrating an application he is developing with [redacted]

Using [redacted] in [redacted] installing [redacted] with [redacted] and new features in [redacted]

Your other activities include maintaining a web site on the internet, sales of sponsorship links on your web site, sales of your mailing list and soliciting sponsors for your meetings. The web site contains information on your meeting dates, your current officers and sponsorship links. You charge a fee of \$[redacted] per year to companies that purchase a sponsorship link which links their web site to yours. Your site currently lists [redacted] sponsors and you estimate that you will have [redacted] to [redacted] companies participate as sponsors each year.

You charge a fee of \$[redacted] per year to anyone purchasing your mailing list. You estimate that this activity will generate \$[redacted] to \$[redacted] per year. To date, no one has purchased a copy of your mailing list.

Sponsors of your meetings are allowed to place advertisements on a table at the meeting they sponsor, are acknowledged at the beginning of the meeting, are allowed five minutes at the end of the meeting to make a statement and are listed as a sponsor on the agendas mailed out to members. The sponsor is required to cover any costs incurred for the meeting site. You have only had sponsors at one of your meetings to date. You indicate that sponsors will only be solicited in the future if a "free" meeting site can't be secured.

Section 501(c)(6) of the Internal Revenue Code provides exemption for:

"Business leagues, chambers of commerce,...not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of the regulations provides as follows:

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league. \*\*\*"

Revenue Ruling 74-147, 1974-1 C.B. 136 describes an organization whose members represent diversified businesses that own, rent, or lease digital computers produced by various manufacturers, organized to improve the efficiency of its members' use of computers, qualifies for exemption under section 501(c)(6) of the Code.



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Revenue Ruling 83-164, 1983-2 C.B. 95 states that an organization whose members represent diversified businesses that own, rent or lease computers produced by a single computer manufacturer does not qualify for exemption under section 501(c)(6) of the Code.

In National Prime Users Group, Inc. v. U.S. 667 F. Supp. 250, an organization did not qualify as a business league entitled to exempt status since it didn't meet the line of business requirement. The organization was organized for users of computer equipment manufactured by one particular corporation and did not serve the interests of the entire industry.

In Guide International Corporation v. U.S. 948 F.2d 360, an organization did not qualify as a tax exempt business league because it failed to meet the requirement that its services benefit an entire "line of business". The organization's membership was limited to businesses owning IBM mainframe equipment and its activities were focused on their specific interests and user needs.

Revenue Ruling 83-164 and both of the cases noted above cite National Muffler Dealers Association, Inc. v. United States, 440 U.S. 472, 477-479 (1979). In that case, a trade organization for muffler dealers was not exempt. It confined its membership to dealers franchised by a particular company and its activities to the business of that company. The court held that Midas Muffler franchisees do not constitute a "line of business" and that tax exemption as a business league "is not available to aid one group in competition with another within an industry".

You state that you should be exempt under section 501(c)(6) of the Code because your membership consists of individuals in the area of web application development in general since you do not specifically restrict your membership to the users of [REDACTED] products, and because the topics covered at your meetings include information for areas in web development which do not require the use of any product from [REDACTED].

However, the active membership consists mainly of a small number of [REDACTED] software users. Further, the majority of the topics presented at the three meetings you have conducted to date have focused on [REDACTED] products.

Your members do have a common business interest in the use of computer software similar to the common business interests described in the revenue rulings and the two court cases concerning computer hardware. However, the organization in Revenue Ruling 74-147 directs its activities to users of hardware made by diverse and competing manufacturers, while you direct your activities to users of software made by one manufacturer. Your activities are directed to the use of [REDACTED] just as the activities of the organizations described in Revenue Ruling 83-164 and the two court cases are directed to the activities of a particular manufacturer of hardware.

By directing your activities to the users of [REDACTED] software, you are directing your activities toward the improvement of business conditions in

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[REDACTED]

only one segment of the web application development line of business to which your members belong. Because you limit your activities to the users of [REDACTED] software, you help provide a competitive advantage to [REDACTED] and its customers at the expense of [REDACTED] competitors and their customers that may use other brands of software. Your activities are not directed towards the improvement of business conditions in one or more lines of business within the meaning of section 1.501(c)(6)-1 of the Regulations.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code, and you are required to file Federal Income Tax Returns on Form 1120.


If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,



Glenn E. Henderson  
District Director

Enclosures:  
Publication 892  
Form 6018